

FREEDOM OF INFORMATION

1 Purpose

To ensure that the PCT complies with the provisions of the Freedom of Information Act 2000, which was implemented on 30 November 2000.

To use the principles contained within the Act to maximize provision for the disclosure of information held by the PCT.

To give details of the PCT obligations under the Act and to ensure that all managers and staff are aware of the action to be taken in order to comply with the Act.

To give details of how patients and staff can gain access to information under the Act.

1.1 Scope/Definition

To ensure that each PCT employee is provided with a proper awareness and concern for records management and disclosure rules, under the Act.

To provide a framework and an executive level of support for the establishment of standards, procedures and resources to affect a high level of organization for recorded information.

To establish overall objectives and broad organisational responsibilities for recorded information.

Health and administrative records are core resources for the NHS. They must be properly safeguarded and used efficiently. All staff - managerial, administrative, professional and medical - must follow the appropriate guidelines and supporting corporate strategies. At the same time it is important to ensure that resources and procedures for records management are proportionate and appropriate to each organisation.

1.2 Responsible Persons

This policy applies to all staff and managers working within East Hampshire Primary Care Trust. Failure to comply with this policy could result in disciplinary action being taken. As a condition of employment, every employee will ensure that all recorded information, including e-mails, is not disclosed or passed on in any unauthorised way. Breaches of confidentiality will be regarded as serious misconduct and could lead to disciplinary action or even dismissal. Against this, a failure to provide authorised information in a timely manner would also be a breach under the Act and could lead to prosecution of individual employees as well as the PCT.

1.3 Requirements

The PCT collects information and data about a wide range of subjects. All such information is subject to disclosure under the Act, unless it is protected under the Data Protection Act 1998 or is otherwise exempt under the Freedom of Information 2000. To this end, the PCT endorses and adheres to the Freedom of Information Act 2000.

The 2000 Act establishes legal rights for individuals and allows them access to information held by public authorities. Any person, anywhere in the world, may make a written request for

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information and is entitled to be informed, in writing, whether the PCT holds information of the description specified in the request and, where such information is held, to have that information communicated in a useable format, unless an exemption applies. The applicant may request to have a copy of the requested information, or to inspect the record containing the information, or to have a digest or summary of the information. The PCT is required to provide advice and assistance to an applicant, in order to simplify the process of making a request for information.

Data quality and records management are critical, in order to meet the timescale of 20 working days allowed for providing information, once requested. Once a request for information has been received, the subject information may not be altered unless it would routinely have been altered.

1.4 Exemptions

Exemptions exist in the form of absolute exemptions or exemptions in the public interest.

Absolute exemptions are shown below:

- Information that is reasonably accessible to the public is automatically absolute exempt information and no further action is required. This would apply in the case of material published on the Internet or available via a public library.
- Information from certain sensitive government agencies is absolute exempt information, as is information that may be detrimental to national security or international relations if disclosed.
- Personal data, as defined in the Data Protection policy, is absolute exempt information.
- Information gained in confidence is absolute exempt information.

Exemptions subject to a "public interest test" are shown below:

- Information that is held for future publication is exempt information.
- An exemption exists to avoid excessive expenditure in attempting to meet requests for information. A similar exemption exists where it is considered that multiple requests for the same information are received from one person or from a group of people acting together.
- Information is exempt information if its disclosure might endanger the physical or mental health of any individual or the physical safety of any individual.
- An exemption exists where information has not changed since it was previously provided, unless a reasonable period has elapsed.
- Information held by the PCT is exempt information if at any time it has been held in connection with any criminal investigation.
- Information is exempt information if it relates to communications with the Royal family or the Royal household, or to the conferring by the Crown of any honour or dignity.

Where an exemption applies, the PCT may refuse to supply the information requested but must respond to the applicant within the 20 working days giving details of why the refusal has been

made. In these circumstances, it is not necessary to state whether or not information is held which matches the information requested.

A record becomes a historical record 30 years after creation. Information contained in a historical record loses the status of exempt information after 30, 60 or 100 years, subject to the type of information.

1.5 Actions

The PCT will, through appropriate management and strict application of criteria and controls:

- Observe fully the conditions regarding the fair collection and use of information.
- Meet its legal obligations to accurately record information and disclose information when requested and appropriate.
- Apply strict checks to determine the length of time information is held.
- Publish appropriate information to the public domain.
- Take necessary technical and organisational measures to ensure the security of information held.
- Ensure that there is a nominated manager with responsibilities for freedom of information (Currently Matthew Thomas, the Corporate Project Manager)
- Ensure that everyone handling information understands that they have a contractual responsibility for following good record management practice.
- Ensure that everyone handling information has the appropriate skills to do so.
- Ensure that any staff member wanting to make an enquiry regarding handling information knows what to do.
- Ensure that any requests for information are promptly and courteously dealt with.
- Audit methods of information handling and storage on a regular basis.
- Apply the timescales of record destruction in accordance with the "Retention and Disposal Schedule". However, it is important that active requests for information disclosure (Under DPA or FOI) are checked prior to the destruction of any records.

1.6 Notification

A register of all records is to be compiled and held by the Freedom of Information Manager. This record is to include all Policies, Service Level Agreements, Contracts, Standing Orders, Departmental Instructions, Meeting Agendas and Minutes, Reports, flyers and publicity notices, databases and spreadsheets, etc., produced by or within the PCT. **All staff are to assist in the compilation of this register by notifying the FOI Manager of existing documents and when new documents are produced and/or adopted.**

All new staff contracts and job descriptions will contain a clause informing them that they are bound by the Freedom of Information Act 2000. Existing staff will be subject to this policy until such time as their contract and / or job description is updated.

1.7 Staff Training and Education

All staff will receive information on Record Management issues within their induction packs.

All staff will attend an induction on Freedom of Information issues.

1.8 Audit Standards and Criteria

Regular audits will be undertaken to ensure that staff are complying with best-practice record management principles.

The Freedom of Information Manager will keep all staff up to date on Freedom of Information issues.

This policy will be reviewed on an annual basis.

1.9 Reference Documentation

- Freedom of Information Act 2000 Chapter 36 (as published by The Stationery Office Limited)
- Data Protection Act 1998 Chapter 29 (as published by The Stationery Office Limited)

1.10 Procedures/Guidelines

Good record keeping ensures that:

- You can work with maximum efficiency without having to waste time hunting for information.
- There is an "audit trail" which enables any record entry to be traced to a named individual at a given date/time with the secure knowledge that all alterations can be similarly traced.
- Those coming after you can see what has been done, or not done, and why
- Any decisions made can be justified or reconsidered at a later date

It is therefore vital that you always:

- Record any important and relevant information; making sure that it is complete.
- Ensure that it is legible so that it can easily be read and reproduced when required.
- Notify the FOI Manager that the document exists.
- Put it where it can be found when needed.
- Keep it up to date.
- If necessary, share information rather than copying it in order to reduce risks to confidentiality.

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- Suitably dispose of records as soon as possible (subject to national and local retention periods). This applies particularly to working copies of agendas and minutes, which may have been used for "note-taking" during meetings.

1.11 Appendices and Attachments

Appendix A: Summary of HSC 1999/053: For The Record - Managing records in NHS Trusts and Health Authorities. Issued 19th March 1999

Appendix B: For The Record: NHS Retention & Disposal Schedule

Attachment 1: Procedure For Handling FOI Applications

Attachment 2: Summary of Key Actions & Timescales

Attachment 3: Record Keeping to Monitor FOI Compliance

Attachment 4: Standard Letters for Response to Applicants

Author	Matthew Thomas
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2 nd Review Due	November 2005

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Appendix A For The Record - Managing Records In NHS Trusts And Health Authorities
A Summary of Health Service Circular 1999/053

1 The Importance Of Sound Records Management Practices In The NHS.

Records management is regarded as a professional activity requiring specific expertise. NHS Records are public records and are a valuable resource because of the information they contain. That information is only usable if it is correctly recorded, regularly up-dated and is easily accessible when it is needed. The underlying principles for effective records management apply equally to electronically held records.

1.12 Confidentiality

All NHS bodies and those carrying out functions on behalf of the NHS have a common law duty of confidence to patients and a duty to maintain professional ethical standards of confidentiality. Everyone working for or with the NHS who records, handles, stores, or otherwise comes across patient information has a personal common law duty of confidence to patients and to his or her employer. The duty of confidence continues even after the death of the patient, or after an employee or contractor has left the NHS.

1.13 Data Protection

In general, any personal information given or received in confidence for one purpose may not be used for a different purpose or passed to anyone else without the consent of the provider of the information. This duty of confidence is long established at common law. However, it is not an absolute duty and can be subject to an overriding public interest. Medical historical and epidemiological research is based on patient information. Usually, the information is anonymised so that individual patients cannot be identified. In such cases, the use of the information is generally accepted as being not incompatible with the duty of confidence. Where identifiable information is used, in the absence of consent (express or implied), it is necessary to consider whether any public interest in the research outweighs the duty of confidence, having regard to all the circumstances.

1.14 Individual responsibility

In practice, **you** are responsible for any records that you create or use. Furthermore, as an employee of the NHS, any records that you create are public records. These guidelines apply to NHS records of all types; any material that holds information gathered as part of your work in the NHS. It is important to remember that the ownership and copyright in these records as a rule is with the Trust, not with any individual employee or contractor.

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Appendix B NHS Mandatory Retention & Disposal Schedule

The destruction of records is an irreversible act and the criteria stated below are intended to give guidance on the minimum retention periods. Whenever the schedule is used, the guidelines listed below should be followed:

Local business requirements/instructions must be considered before activating retention periods in this schedule. In particular, it is important that active requests for information disclosure (Under DPA or FOI) are checked prior to the destruction of any records.

Decisions should also be considered in the light of the need to preserve records, whose use cannot be anticipated fully at the present time, but which may be of value to future generations.

Recommended minimum retention periods should be calculated from the end of the calendar or accounting year following the last entry on the document.

The selection of files for permanent preservation is partly informed by precedent and partly by historical content.

The provisions of the Data Protection Act must also be complied with. *

VI. Records transferred to microfiche or optical imaging format should still only be kept as long as the records would have been retained should they have been kept in manual or paper format.

NB. Notes in italics indicate that a local decision has been made based on the requirements of other agencies i.e. inland revenue.

Record Type	Minimum Retention Period (Years)	Notes
Abortion - Certificate A (Form HSA1) and Certificate B (Emergency Abortion)	3	Abortion Regulations 1991, Statutory Instrument No. 499
Accident Forms		See Litigation dossiers
Accident Register (RIDDOR)	3	Reporting of injuries, diseases and dangerous occurrence regulations, reg. 7; Social Security (Claims and Payments) Regulations, reg. 25
Accident and Emergency Registers		See Hospital patient case records (individual)
Accounts - Annual (Final - one set only)	Permanent	
Accounts - Cost	3	
Accounts - working Papers	3	

Record Type	Minimum Retention Period (Years)	Notes
Accounts - Minor records (pass books; paying-in slips; cheque counterfoils; cancelled/discharged cheques (other than cheques bearing printed receipts - See Receipts); accounts of petty cash expenditure; travelling and subsistence accounts; minor vouchers; duplicate receipt books; income records; laundry lists and receipts.)	2	From completion of the audit
Admission books		See Hospital patient case records (individual)
Advance Letters	6	
Advice Notes	1.5	
Agendas		See Meeting Papers
Agreements		See Contracts
Approval File (Contracts)	Permanent	
Approved Suppliers Lists	11	Consumer Protection Act 1987
Audit Records - original documents	2	From completion of the audits
Audit Reports (including Management Letters, VFM reports and system/final accounts memorandum)	2	After formal clearance by Statutory Auditor
Bank Statements	2	From completion of the audits
Benefactions	5	
Bills, receipts and cleared cheques	6	
Birth registers (i.e. register of births kept by the hospital)	Permanent	
Budgets	2	From completion of the audit
Buildings and engineering works, inclusive of major projects abandoned or deferred - key records (e.g. Final accounts, surveys, site plans, bills of quantities)	Permanent	

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Record Type	Minimum Retention Period (Years)	Notes
Buildings and engineering works, inclusive of major projects abandoned or deferred - town and country planning matters and all formal contract documents (e.g. Executed agreements, conditions of contract, specifications, "as built" record drawings and documents on the appointment and conditions of engagement of private buildings and engineering consultants.	Permanent	The general principle to be followed in regard to these records is that they should be preserved for the life of the buildings and installations to which they refer.
Buildings - papers relating to occupation (but not Health & Safety information)	3	After occupation ceases. Construction Design Management Regulations 1994
Capital Charges Data	2	From completion of the audit
Capital Paid Invoices		See Invoices
Cash Books	6	The Limitation Act, 1980
Cash Sheets	6	The Limitation Act, 1980
Complaints		See Litigation dossiers
Computerised Records		The recommended minimum retention periods apply to paper and computerised records, though extra care needs to be taken to prevent corruption or deterioration of the data. Recording/migration of data will also need to be considered as software and equipment become obsolete. For guidance, See the Public Records Office Guidance, <u>Management and Appraisal of Electronic Records 1998</u> This will apply to patient data bases
Contracts - non sealed (property) on termination	6	The Limitation Act, 1980
Contracts - non sealed (other) on termination	6	The Limitation Act, 1980
Contracts – sealed (and associated records)	15	
Cost accounts		See Accounts
Creditor Payments	3	
CV's for non-executive directors (successful)	5	Following term of office

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Record Type	Minimum Retention Period (Years)	Notes
CV's for non-executive directors (unsuccessful applicants)	2	Following application
Day Files	0.5	
Death registers (i.e. register of deaths kept by the hospital)	3	NB All patients deaths are recorded on patient database.
Debtors' records - cleared	2	From completion of the audit
Debtors' records - uncleared	6	
Deeds of Title	Permanent	
Delivery Notes	1.5	
Demand Notes	6	
Diaries - office - on completion	1	
Diaries - clinician's - on completion	3	
Discharge books (i.e. register of those discharged by the hospital)	3	
Drawings		See Plans and Buildings
Engineering works		See Plans and Buildings
Equipment		See Products - Liability
Establishment records - major (e.g. Personal files, letters of appointment, contracts references & related correspondence)	6	Keep for 6 years after subject of file leaves service, or until subject's 70th birthday, whichever is the later. Only the summary needs to be kept to age 70; remainder of file can be destroyed 6 years after subject leaves service.
Establishment records - minor (e.g. attendance books, annual leave records, duty-rosters, clock cards, timesheets)	2	
Estimates: including supporting calculations and statistics	3	
Expense Claims	2	From completion of the audit

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Record Type	Minimum Retention Period (Years)	Notes
Financial records		See under individual headings. However, once the period of retention for audit purposes is complete (2 years from completion of the audit), documents not required for permanent preservation may be destroyed provided a properly compiled microfilm record is retained for the remainder of the prescribed period, embodying a suitable certificate by the treasurer as to its accuracy and completeness. This does not apply to forms SD55 (ADP) and SD 55j
Forms - Surgical Appliances - AP1, 2, 3 and 4	2	From completion of the audit
Forms - Superannuation - SD55 (ADP) and SD55J (copies)	10	Originals are sent to NHS Pensions Agency
Funding Data	6	
FWH - Personal Record of Hours Actually Worked	0.5	
Health records - personal/patients		See Hospital Patient case records (also applicable to community patient records)
History of Authority or Predecessors, its organisation and procedures	Permanent	
History of Hospitals	Permanent	
<p>Hospital patient case records (individual)</p> <p>N.B. This retention schedule does not cover GP medical records. Guidance on their retention can be found in HSC 1998/217 and ECL 2/68, both of which remain current as at March 1999.</p> <p>Any reference to "conclusion of treatment" in the following recommended minimum retention periods should be taken to include all follow-up checks and action in connection with the treatment.</p>		<p>The retention periods, which are listed below, reflect minimum requirements of clinical need. Personal health records may be required as evidence in legal actions; the minimum retention periods take account of this requirement. It is not necessary to keep every piece of paper received in connection with patients. NHS PCT and Health Authorities should determine, in consultation with their health professionals, which elements should be considered as a permanent part of the record, and which should be transient and discarded as their value ceases.</p> <p>Before any destruction takes place, ensure that</p> <p>(a) There is consultation with the relevant health professional body or records committee and actions clearly minuted;</p> <p>(b) Any other local clinical need is considered; and</p> <p>(c) The value of the records for long-term research purposes has been assessed, in consultation with an appropriate place of deposit.</p>
- Pre 1948 records		Should by now have been transferred for permanent preservation or destroyed. Any pre-1948 records that still exist should be considered for permanent preservation, undergoing an appraisal procedure as described in the box above.

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Record Type	Minimum Retention Period (Years)	Notes
- Children and young people		Until the patient's 25th birthday, or 26th if young person was 17 at conclusion of treatment; or 8 years after patient's death if death occurred before 18th birthday.
- Donor records		11 years post transplantation. Committee on Microbiological Safety of Blood and Tissues for Transplantation (MSBT); guidance issued in 1996.
- Maternity (all obstetric and midwifery records including those of episodes of maternity care that end in stillbirth or where the child later dies)	25 years	
-Mentally disordered persons (within the meaning of the Mental Health Act 1983)		20 years after no further treatment considered necessary, or eight years after the patient's death if patient died while still receiving treatment.
- Oncology		8 years after conclusion of treatment, especially when surgery only involved. Consideration may wish to be given to BFCO (96) 3 issued by the Royal College of Radiologists, which recommends permanent retention on a computer database when patients have been given chemotherapy and radiotherapy.
- Patients involved in clinical trials		15 years after conclusion of treatment. EEC Note for Guidance: Good Clinical Practice for Trials on Medicinal Products in the European Community, section 3.17 (see - Pharmacology & Toxicology 1990, 67, 361-372.)
- General (not covered above)		8 years after conclusion of treatment.
<u>Notes on preservation of patient records for historical purposes</u>		
<p>1. In the light of the latest trends in medical and historical research, it may be appropriate to select some of these records for permanent preservation. Selection should be performed in consultation with health professionals, and archivists from an appropriate place of deposit. If records are to be sampled, specialist advice should be sought from the same health professionals and archivists. If a NHS PCT or Health Authority has taken on a leading role in the development of specialised treatments, then the patient records relating to these treatments may be especially worthy of permanent preservation.</p> <p>2. If a whole run of patient records is not considered worthy of permanent preservation but nevertheless contains some material of research value, then the option of presenting these records to local record offices and other institutions under s.3(6) of the Public Records Act 1958 should be considered. Advice on the presentation procedure may be obtained from the PROs Archive Inspection Services.</p> <p>3. If a whole run of patient records is considered worthy of permanent preservation but there is a lack of space in the relevant place of deposit to store these records, it may be appropriate to make a microfilm copy and then destroy the paper originals. Microfilms should be produced in accordance with the British and International Standard BS ISO 6199: 1991, copies of which can be purchased from the British Standards Institute.</p>		

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Record Type	Minimum Retention Period (Years)	Notes
<u>Notes on the destruction of confidential patient records</u>		
Destruction of confidential records must ensure that their confidentiality is fully maintained. Normally destruction should be by incineration or shredding. Where a contractor provides this service, it is the responsibility of the NHS PCT or Health Authority to satisfy itself that the methods used throughout all stages including transport to the destruction site provide satisfactory safeguards against accidental loss or disclosure.		

Record Type	Minimum Retention Period (Years)	Notes
Hospital Services	10	
Indexes	Lifetime	Registry lists may describe public records marked for permanent preservation, or contain the record of management of public records. They should in these cases be retained permanently. File-lists and document lists, where public records or their management are not covered, should be retained until they have no further administrative use.
Income and expenditure journals	6	
Industrial Relations (not routine staff Matters)	6	
Inspection Reports - e.g. Boilers, lifts etc.	Lifetime	Normally retain for the lifetime of an installation. However, it is necessary to assess whether obligations incurred during the lifetime may not be invoked until afterwards, in which case a judgement must be made. If there is any measurable risk of a liability in respect of installations beyond their operational lives, records of this kind should be retained indefinitely.
Inventories (not in current use) of items having a life of less than 5 years	1.5	
Invoices	6	The Limitation Act, 1980
Job Advertisements	1	
Job Applications (following termination of employment)	3	
Job Descriptions (following termination of employment)	3	
Korner Records		See Patient Activity Data
Laboratory records	6	
Land Surveys/Registers		
Laundry Lists and Receipts	2	From completion of the audit
Leases		

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Record Type	Minimum Retention Period (Years)	Notes
Leavers Dossiers (provided summary retained)	6	
Ledgers	6	The Limitation Act, 1980
Letters of appointment		See Establishment records - major
Litigation Dossiers (complaints including accident reports)	10	Where a legal action has been commenced, keep as advised by legal representatives
Maintenance contracts - routine		See Contracts
Manuals - operating	Lifetime	See Inspection reports
Manuals - policy and procedure	5	
Maps	3	
Maternity records		See Hospital patient case records
Medical records		See Hospital patient case records
Meeting Papers - committees, sub-committees, predecessors (Master copies)	Permanent	
Minutes - reference copies	1	
Mortgage documents (acquisition, transfer and disposal)	Permanent	
Nominal Rolls	6 (max.)	As a general rule, it may be appropriate for only the current nominal roll and the immediately preceding roll to be kept.
Non-Exchequer funds records		Although technically exempt from the Public Records Acts, it would be appropriate for authorities to treat these records as if they were not so exempt. See Income and expenditure journals, etc.
Nurses Training Records	30	
Obstetric records		See Hospital patient case records - Maternity records
Occupational Health Records	40	
Operating Theatre registers	25	
Patient Activity Data	3	(Will include Korner returns to the DoH etc)
Pay Roll - other staff	6	
PAYE Records	6	
Personnel Files		See Establishment records - major
Pharmacy records	25	
Photographs - as part of a patient or personal record		As for the record itself
Plans - Building (As Built)		
Plans - Building (Detailed)	Lifetime	See Inspection reports
Plans - Engineering	Lifetime	See Inspection reports
Press Cuttings	1	
Private patient records admitted under section 58 of the National Health Service Act 1977 or section 5 of the National Health Service Act 1946.		Although technically exempt from the Public Records Acts, it would be appropriate for authorities to treat such records as if they were not so exempt. See Hospital patient case

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Record Type	Minimum Retention Period (Years)	Notes
		records.
Products - Liability	11	Consumer Protection Act 1987
Project Files (over £100,000) on termination - including abandoned or deferred projects	15	
Project Team Files - summary retained	3	
Property Acquisitions Dossiers	Permanent	
Property Disposal Dossiers	Permanent	
Quality Assurance Records	12	
Receipt for registered and recorded delivery mail	1.5	
Receipts	6	The Limitation Act, 1980
Record of custody and transfer of keys	1.5	
Reports (major)	Permanent	
Requisitions	1.5	
Research and Development (Scientific, Technological and Medical)	30	
Salaries		See Wages
SD55(ADP) and SD55J		See Forms
Serious Incident Files	25	
Site Files		See Contracts
Social Services (AMH)	20	
Software licences	Lifetime	
Specifications	6	The Limitation Act, 1980
Staff Records		See Establishment records - major
Stock Control Reports	1.5	
Stores Records - major (stores ledgers etc.)	1.5	
Stores Records - minor (requisitions, issue notes, transfer vouchers, goods received books etc.)	1.5	
Structure Plans (LA's)		
Study Leave Applications	1.5	
Superannuation Accounts	10	
Superannuation Registers	10	
Supplies records - minor (e.g. invitations to tender and inadmissible tenders, routine papers relating to catering and demands for furniture, equipment, stationery and other supplies)	1.5	
Surgical Appliances - Forms		See Forms
Surveys - building and engineering works		Lifetime of building
Tax Forms	6	
Tenders (successful)		See Contracts
Tenders (unsuccessful)	6	The Limitation Act, 1980
Time Sheets		See Establishment Records - minor

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Record Type	Minimum Retention Period (Years)	Notes
Title Deeds		See Deeds of Title
PCT documents without permanent relevance	6	
VAT Records	6	
Wages/Salary Records	10	For superannuation purposes, authorities may wish to retain such records until the subject reaches benefit age.
Ward registers	15	
X-ray films (including other image formats for all imaging modalities)		To be considered as a permanent part of the patient record - See Hospital patient case records.
X-ray registers		To be considered as a permanent part of the patient record - See Hospital patient case records.
X-ray reports (including reports for all imaging modalities)		To be considered as a permanent part of the patient record - See Hospital patient case records.

Attachment 1 Procedures for handling FOI applications**1 INTRODUCTION****1.1 Freedom of Information Act 2000**

The Government is committed to greater openness in the public sector. The Freedom of Information Act 2000 will further this aim by helping to transform the culture of the public sector to one of greater openness. It will enable members of the public to question the decisions of public authorities more closely and ensuring that the services we provide are efficiently and properly delivered.

The main features of the Freedom of Information Act 2000 are:

- A general right of access to recorded information held by public authorities, subject to certain conditions and exemptions;
- In cases where information is exempted from disclosure, except where an absolute exemption applies, a duty on public authorities to:
 - Inform the applicant whether they hold the information requested, and
 - Communicate the information to him or her,

Unless the public interest in maintaining the exemption in question outweighs the public interest in disclosure;

- A duty on every public authority to adopt and maintain a Publication Scheme;
- A new office of Information Commissioner with wide powers to enforce the rights created by the Act and to promote good practice, and a new Information Tribunal;
- A duty on the Lord Chancellor to promulgate Codes of Practice for guidance on specific issues.

1.2 Lord Chancellor's Code of Practice

This document is based upon the Code of Practice issued by the Lord Chancellor pursuant to section 45(5) of the Freedom of Information Act 2000¹. It is designed to support implementation of the Freedom of Information Act 2000, referred to hereafter as the Act, and ensure compliance with Code of Practice.

A failure to comply with the Code of Practice may result in action against the PCT by the Information Commissioner who, under section 47 of the Act, has a duty to promote the observance of the Code by public authorities.

1.3 Duty to Provide Advice and Assistance

Section 16 of the Act places a duty on public authorities to provide advice and assistance to applicants. These procedures will facilitate compliance with this duty, which is again enforceable by the Information Commissioner. In the discharge of this duty the PCT will take account of other Acts of Parliament that may be relevant to the provision of advice and assistance to applicants, e.g. the Disability Discrimination Act 1995 and the Race Relations Act 1976 (as amended by the Race Relations (Amendment) Act 2000).

The Corporate Project Manager will be responsible for this in respect of this PCT.

¹ Lord Chancellor's Code of Practice On The Discharge of Public Authorities' Functions Under Part I of the Freedom of Information Act 2000, Issued under Section 45 of the Act, November 2002
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1.4 Aims and Scope of the Operational Manual

In common with the Code of Practice, the aim of this procedure is to:

- Facilitate the disclosure of information under the Act by setting out good administrative practice that the PCT will follow when handling requests for information, including, where appropriate, the transfer of a request to a different authority;
- Protect the interests of applicants to the PCT by setting out standards for the provision of advice which it would be good practice to make available to them and to encourage the development of effective means of complaining about decisions taken under the Act;
- Ensure that the interests of third parties who may be affected by any decision to disclose information are considered by the PCT by setting standards for consultation.

All Non-Executive Directors and staff must be aware of and adhere to these procedures, which apply to all individuals engaged in the discharge of the duties of this PCT.

The Information Governance Lead will review these procedures on at least an annual basis.

1.5 Publication Scheme or general right of access?

Requests for information under the Act will arise from two main sources, through the PCT's Publication Scheme or through the general right of access to recorded information held by public authorities.

Under section 19 of the Act, all public authorities are required to publish and maintain such a scheme, or adopt a model Publication Scheme approved by the Information Commissioner under section 20 of the Act. A Publication Scheme is a complete guide to the information routinely published by a public authority. It describes the classes or types of information about our organisation that we make publicly available.

The PCT has adopted a model Publication Scheme for NHS organisations. The Scheme will be accessible through the PCT's website. Hard copies are available on request. The FOI lead will review the Publication Scheme for the accuracy of the information it contains on a quarterly basis. The Information Commissioner will formally review the Publication Scheme every three to four years.

A Publication Scheme is essentially a proactive tool for the dissemination of information relating to the business of a public authority. Requests that specifically cite that the information the applicant requires has been identified in the PCT's Publication Scheme may be received verbally or in writing (including through electronic means).

The general rights of access to recorded information by individual applicants come into force from 1st January 2005. These requests *must be made in writing* (which includes a request transmitted by electronic means that is received in legible form and is capable of being used for subsequent reference). These requests will cover information that is not listed in the Publication Scheme.

Requests from either source will be dealt with utilising the procedures outlined below.

1.6 Contact Details

The Information Governance Lead is responsible for rights of access to information under the Access to Health Records Act 1990, the Data Protection Act 1998 and the Freedom of Information Act 2000.

The PCT's Information Governance lead is Matthew Thomas and he can be contacted at:

EHPCT HQ
 Raebarn House
 Hulbert Road
 Waterlooville
 PO7 7GP

Code A

e-mail: matthew.thomas@easthampshirepct.nhs.uk Code A

1.7 When not to use this procedure

Information is made available to stakeholders, through staff, on a daily basis. It would be impractical and overly bureaucratic to attempt to record this activity for FOI purposes.

It is not appropriate to use this Procedure and refer issues to the FOI lead where, for example:

- You are providing information leaflets and other reference material that has already been approved for use by the PCT. This would also include the Publication Scheme, Trust Board papers, Annual Reports and service information leaflets.
- You are discussing an information leaflet or other reference material with another individual, helping them decide on their options and signposting them to a more appropriate source of help.

Remember that all written requests for information should be treated as FOI requests, so you must use this Procedure for guidance. If you are in doubt at any stage about how you should deal with any information request, contact the FOI lead for help.

2 DEALING WITH THE INITIAL APPLICATION FOR INFORMATION

2.1 Publication Scheme Applications

The Publication Scheme directs all applicants who require assistance in obtaining information from the PCT to the FOI lead. As the Publication Scheme also lists the contact details of other key people within the Trust, they may also receive enquiries from the Publication Scheme.

In the event that a request arising from the Publication Scheme is directed to another individual other than the FOI lead they must:

- Take the name and contact details of the applicant.
- Ascertain what information the applicant wants and record this.
- Inform the enquirer that their written request will be referred to the FOI lead within one working day.
- Provide the enquirer with the contact details of the FOI lead, and inform them that their enquiry will be responded to within a maximum of twenty working days.

- Pass the applicant's name, contact details and a detailed account of what information they require to the FOI lead by e-mail or fax. If this is not possible, a telephone contact with the FOI lead is acceptable as a last resort.

All requests for information arising from the Publication Scheme must be referred to the FOI lead within one working day of their receipt. These requests must be in writing. Once the FOI lead has received the request, the procedure for processing requests for information applies.

2.2 General Right of Access Applications

Applications under the general right of access to recorded information relate to information not listed in the Publication Scheme. These requests may be retrospective in that they may seek information held by the organisation that is no longer being actively used or has been archived. Such requests are permissible under the Act from 1st January 2005.

As stated above, these applications must be received in writing (which includes a request transmitted electronically). They will usually be directed to the FOI lead, although another individual working with the PCT may also receive them. In such circumstances, the individual must forward the request to the FOI lead by fax or e-mail within one working day. If the application has been made in the form of a letter, the original documentation should also be sent to the FOI lead in addition to the facsimile or electronic copy.

If an applicant wishes to access information under the general right of access but has not put their request in writing they should be referred to the FOI lead, thus activating the systems for the Provision of Advice and Assistance to Applicants (see 5 below).

Once the FOI lead has received the applicant's request, the procedures for processing requests for information will be activated.

All written requests for information to the PCT must, from 1st January 2005, be treated as if they are a FOI request.

3 PROCESSING REQUESTS FOR INFORMATION

3.1 Stage One - Upon Receipt of a Request

Once the FOI lead receives an applicant's request for information the following information will be recorded:

- Request Identifier (FOI/<year>/<ascending number>)
- Initial Date Received by the Trust
- Name and Contact Details for Initial Recipient
- Date Received by FOI lead
- Name of Applicant
- Contact Details
- Access route – Publication Scheme or general right of access
- Information Requested

A summary of all the information that the PCT will record for the purposes of monitoring compliance with the Act can be found in Appendix Two.

The FOI lead will write (electronic contact is appropriate) within two working days to inform the applicant that their request has been received and is being processed. A record will be kept of this contact.

If the FOI lead has sufficient information to respond to the request, they will inform the applicant in the letter of acknowledgement that their request will be processed within twenty working days. They will also inform the applicant in writing of any fees or charges, if known, that are payable for the provision of the information and that no information will be provided unless the fee or charge is paid within three months. In regard to the general right of access from 1st January 2005, this will constitute the issue of a Fees Notice as described in section 9 of the Act. The Publication Scheme will make clear whether there will be any charges for the information provided through that mechanism. *Charges and fees are addressed in 8 below.*

If the fee or charge is not paid within three months from the day on which the applicant receives the Fees Notice or is informed of the charge, the systems for the Provision of Advice and Assistance to Applicants (see 5) will be activated. If the applicant still refuses to pay a Fees Notice after advice and assistance is offered, the Procedure for Refusal of a Request will be activated (see 4).

If the applicant has not provided sufficient information for the request to be processed, the systems for the Provision of Advice and Assistance to Applicants (see 5) will be activated.

In accordance with sections 12 and 13 of the Act, if the FOI lead estimates that the cost of compliance with the request for information exceeds the appropriate limit set by the Fees Regulations, they will notify the applicant in writing of the estimated cost. The systems for the Provision of Advice and Assistance to Applicants (see 5) will be initiated to investigate ways of bringing costs within appropriate limits. If it is not possible to comply with the request within appropriate limits, a Fees Notice will be issued as described in 3.1.3.

If the FOI lead believes that any of the information requested is exempt from disclosure under Part II of the Act, the Procedure for Refusal of a Request will be invoked (see 4). This includes circumstances where the information requested is available from another source other than the Trust, unless that source is a public authority, in which case the request may be transferred to that authority (see 6).

If the FOI lead has evidence to demonstrate that the request is vexatious or repeated, as defined under section 14 of the Act, the Procedure for Refusal of a Request (see 4) will be activated.

3.2 Stage Two - Accessing the Information

The FOI lead will identify who holds the information that the applicant has requested. They will, within two working days, identify and contact the person(s) in the PCT who are most appropriately placed to meet the requirements of the applicant. The FOI lead will keep a record of this contact.

Upon receipt of an information request from the FOI lead, PCT staff will have five working days to locate and provide the information requested to the FOI lead. If it is not possible to meet this deadline, the FOI lead must be informed immediately, up to five additional working days may then be allowed to comply with the initial request. The FOI lead will keep a record of these contacts.

The information that the applicant has requested will then be forwarded to the FOI lead who will then review the information in respect of any exemptions and/or fees payable within two working days before providing the information to the applicant. If any exemptions are applicable, the Procedure for the Refusal of Requests will be activated (see 4). If fees are payable the applicant will be issued with a Fees Notice as described in 3.1.3 above.

POLICY No: OPR/F4

If the FOI lead feels that releasing particular information under the general rights of access would be in some way contentious, the matter will be taken to the FOI Forum. The Forum will make a decision to release or deny access to the contentious information within the required time frame for responding to requests. The FOI lead will ensure that the applicant is kept informed as to the progress of their request. The FOI Forum will be constructed on an *ad hoc* basis, as required, under the guidance of the FOI lead.

3.3 Stage Three - Providing the Information

If no fees or charges are either payable or outstanding (see 8), or if no exemptions are applicable, the FOI lead will provide the information requested by the applicant directly to them within three working days.

Information will be provided to applicants by any one or more of the following means, namely:

- As a copy of the information in permanent form or another form acceptable to the applicant.
- Through the provision of a reasonable opportunity to inspect a record containing the information.
- The provision of a digest or summary of the information in permanent form or in another form acceptable to the applicant.

The FOI lead will consider all the circumstances of the request for the communication of information by a particular means, including the cost of doing so. If the FOI lead determines that it is not reasonably practicable to comply with any preference for the provision of the information as requested by the applicant in their request, they will notify the applicant of the reasons for this determination. The information will then be provided by such means as the FOI lead deems to be reasonable. In the discharge of this function, the FOI lead will have regard to other statutory obligations upon the PCT such as those established under the Disability Discrimination Act 1995.

The FOI lead will record:

- The date upon which the information was provided to the applicant and
- The form in which the information was requested
- The format in which the information was provided.

4 REFUSAL OF REQUESTS

A refusal of a request may apply to all the information requested by an applicant or a part thereof. A request for information may be refused if:

- The information is exempt from disclosure under Part II of the Act.
- A fees notice or charge has not been paid within three months beginning on the day on which the fees notice was given to the applicant/the applicant was notified of the charge (see 8).
- The cost of compliance exceeds the appropriate limit.
- The request is demonstrably vexatious or repeated.

If the FOI lead chooses to refuse a request for information under any of the above clauses, the applicant will be informed of the reasons for this decision within twenty working days. As set out in section 17(7), the applicant will also be informed of the PCT's complaints procedures and of their right to complain to the Information Commissioner (see 9).

If the FOI lead is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request, or on a claim that information is exempt information, a notice will be issued within twenty working days under section 17 of the Act. The notice will:

- State that fact,
- Specify the exemption in question, and
- States (if not otherwise apparent) why the exemption applies.

If the FOI lead anticipates that it will take more than twenty working days to reach a decision as to whether any part of the information requested by the applicant is exempt under Part II of the Act, they will notify them that no decision as to the application of an exemption has been reached. They will provide an estimate of the date by which they expect that a decision will have been reached.

Such estimates as described in 4.4 should be realistic and reasonable and compliance expected unless there are extenuating circumstances. If an estimate is exceeded, the applicant will be given a reason(s) for the delay and offered an apology by the FOI lead. If the FOI lead finds, while considering the public interest, that the estimate is proving unrealistic, the applicant will be kept informed. A record will be kept of instances where estimates are exceeded, and where this happens more than occasionally, steps will be taken to identify the problem and rectify it.

If a qualified exemption is being applied, the FOI lead will, either in the notice issued under 4.3 above or a separate notice given within such a time as is reasonable in the circumstances, state the reasons for claiming:

- That, in all the circumstances of the case, the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in disclosing whether the Trust holds the information, or
- That, in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

The statement will not involve the disclosure of information which would itself be exempt information.

If the FOI lead believes that the information requested is exempt as either the cost of compliance exceeds the appropriate limit or the request is demonstrably repeated or vexatious, the notice will state that fact. If the PCT is relying on a claim that the request is vexatious or repeated under section 14 of the Act, and a notice under section 17 has already been issued to the applicant stating this fact, a further notice is not required.

The FOI lead will keep records of all notices issued to refuse requests for information.

When implementing this procedure, the FOI lead will seek advice from those person(s) who hold the information that the applicant has requested and from senior staff.

5 PROVISION OF ADVICE AND ASSISTANCE TO APPLICANTS

5.1 FOI lead

The FOI lead acts as the key contact point for applicants for the PCT. The PCT's FOI lead, Matthew Thomas, can be contacted via:

Code A

e-mail: matthew.thomas **Code A**

The FOI lead will provide advice and assistance to potential and actual applicants for information under the Act. The advice and assistance will include:

- Guidance on how to access information from the PCT under the general right of access and the Publication Scheme,
- Informing the applicant of the progress of their request,
- Explaining the basis upon which any charges or fees have been levied or exemptions applied (this is in addition to Fees Notices and notice(s) issued under section 17 of the Act),
- Suggesting other routes through which applicants may wish to access information, including from other public authorities,
- Obtaining additional information to assist the PCT in meeting the information needs of the applicant,
- Consulting with third parties as required,
- Identifying sources of independent help for applicants, and,
- Directing applicants to the complaints procedure and/or Information Commissioner, if they are dissatisfied with the discharge of the duties of the PCT under Part I of the Act.

A record will be kept of all instances, including those described below, where the FOI lead has provided advice and assistance to (potential) applicants.

The FOI lead will also act as a source of advice and support for PCT staff in regard to the Act.

5.2 Additional Advice and Assistance for Applicants

A request for information under the Act's general right of access must be made in writing (which includes a request transmitted by electronic means which is received in legible form and is capable of being used for subsequent reference). Where a potential applicant is unable to frame their request in writing, the FOI lead will take reasonable steps to ensure that appropriate assistance is given to enable that individual to make a request for information.

Appropriate assistance might include:

- Advising the person that another person (including PCT staff) or agency (such as a Citizens Advice Bureau or other provider of information, advice or advocacy) may be able to assist them with the application, or make the application on their behalf;
- Referring the individual to the Patient Advice and Liaison Service (PALS);

- In exceptional circumstances, offering to take a note of the application over the telephone and then send the note to the applicant for confirmation (in which case, the written note of the telephone request, once verified by the applicant and returned, would constitute a written request for information and the statutory time limit for reply would begin when the written confirmation was received).

This list is not exhaustive, and the FOI lead will discuss the options available to the potential applicant with them, ensuring flexibility by offering the advice and assistance most appropriate to the circumstances of the potential applicant.

5.3 Applicant has provided insufficient information to fulfil their request

Where the applicant has not described the information sought in a way that would enable the PCT to identify or locate it, or the request is ambiguous, the FOI lead will contact them. They will provide assistance to the applicant to enable him or her to describe more clearly the information requested.

The purpose of this contact will be to clarify the nature of the information sought, not to determine the aims or motivation of the applicant. The FOI lead will take care not to give the applicant the impression that he or she is obliged to disclose the nature of his or her interest or that he or she will be treated differently if he or she does. It is important that the applicant is contacted as soon as possible, preferably by telephone, fax or e-mail, or even in a face-to-face contact where more information is needed to clarify what is sought.

Appropriate assistance in this instance might include:

- Providing an outline of the different kinds of information which might meet the terms of the request;
- Providing access to detailed catalogues and indexes, where these are available, to help the applicant ascertain the nature and extent of the information held by the authority;
- Providing, wherever possible, identifiers such as a file reference number, or a description of a particular record so that an applicant can decide if the information is appropriate for their needs;
- Providing a general response to the request, setting out options for further information that could be provided on request.

This list is not exhaustive and the FOI lead will be flexible in offering advice and assistance most appropriate to the circumstances of the applicant. The PCT recognises that applicants cannot reasonably be expected to possess identifiers such as a file reference number, or a description of a particular record, unless this information is made available by the authority for the use of applicants.

Once the FOI lead has provided such assistance, if the applicant still fails to describe the information requested in a way that would enable the PCT to identify and locate it, the FOI lead will seek further clarification. The FOI lead will disclose any information relating to the application that has been successfully identified and found, for which the PCT does not wish to claim an exemption. The FOI lead will explain to the applicant why the PCT cannot take the request any further and provide details of the complaints procedure (see 9) and the applicant's rights under section 50 of the Act.

The twenty working day time limit is not activated until the applicant has provided sufficient information for the PCT to supply them with the information they require.

5.4 Non-Payment of Fees

In some circumstances an applicant may indicate that he or she is not prepared or is unable to pay the fee notified in any fees notice or the charge levied for the information they have requested (see 8). In such cases the FOI lead will consider whether there is any information that may be of interest to the applicant that is available free of charge. They will contact the applicant and explore ways in which the fee or charge may be reduced. For example by:

- Providing information electronically instead of in hard copy, or
- Inviting the applicant to view the information and take their own notes or to select the information they feel to be most relevant to them.

Under section 12(1) and regulations made under section 12(4) of the Act, the PCT is not obliged to comply with a request for information if the cost of complying would exceed the "appropriate limit" (i.e. cost threshold). In such circumstances, the PCT has three options:

- To refuse the request on the basis that it exceeds the cost threshold;
- To charge, under section 13 of the Act, for the provision of the information;
- To seek a means by which information could be provided within the cost ceiling.

In the event of a request exceeding the cost ceiling, the FOI lead will, with the applicant, seek a way in which the information can be provided within the cost ceiling and/or examine with them what information could be provided within the cost ceiling. If this is not possible or if the applicant still wishes to pursue their original request, the FOI lead will ask the applicant whether or not they would be willing to pay the full fees for the information they requested.

If the applicant is willing to pay the full fees for the information they have requested, a Fees Notice will be issued. If the applicant is unwilling to pay the full fees, the Procedure for Refusal of a Request (see 4) will be invoked. The applicant will also be informed of their rights to appeal under the complaints procedure and section 50 of the Act (see 9).

5.5 Vexatious or repeated requests

The FOI lead will not provide assistance to applicants whose requests are vexatious or repeated, as defined by section 14 of the Act.

In such circumstances, the FOI lead should be able to demonstrate that the applicant's request is vexatious or repeated, based upon the monitoring data that they have collected.

5.6 Requests which appear to be part of an organised campaign

The PCT may receive a number of related requests that, under section 12(1) and regulations under section 12(4), take the cumulative cost of compliance over the "appropriate limit" as prescribed in Fees Regulations.

In such circumstances as described in 5.6.1, the FOI lead will consider whether the information could be disclosed in another, more cost effective, manner. For example, the information that has been requested could be published on the PCT's website, with the applicants being notified of this, thus bringing the cost within the appropriate limit.

6 TRANSFERRING REQUESTS FOR INFORMATION

If the PCT receives a request for information which it does not hold, within the meaning of section 3(2) of the Act, but which is held by another public authority, the FOI lead will oversee the transfer

of that request to the other public authority. If, after investigation, the FOI lead finds that the PCT holds some of the information requested, a transfer will be made in respect of the information that the PCT does not hold (but which is held by another public authority).

The "holding" of information includes holding a copy of a record produced or supplied by another person or body (but does not extend to holding a record on behalf of another person or body as provided for in section 3(2)(a) of the Act). In short, if the PCT holds the information, whether or not the PCT has produced it, the obligation to confirm or deny and to subsequently provide the information remains the same as if the PCT had produced the information.

The PCT will deal with all initial requests for information in accordance with the procedure described in 3.1 above. When it becomes apparent to the FOI lead that the PCT does not hold all or part of the information requested, they will advise the applicant of this fact.

If the FOI lead believes that some or all of the information requested is held by another public authority, they will consider what would be the most helpful way of assisting the applicant with his or her request. In most cases this is likely to involve:

- Contacting the applicant and informing him or her that the information requested may be held by another public authority;
- Suggesting that the applicant re-applies to the authority which the PCT believes to hold the information;
- Providing him or her with contact details for that authority.

These will be the options that will be offered first to applicants whose information requests cannot be fulfilled in full or in part by the PCT.

In some cases, the FOI lead may consider it to be more appropriate to transfer the request to another authority in respect of the information that the PCT does not hold. In such cases, the FOI lead will consult the other authority with a view to ascertaining whether it holds the information and, if so, consider whether they should transfer the request to it. A request (or part of a request) should not be transferred without confirmation by the second authority that it holds the information. If this course of action is pursued, the applicant will be informed of this and updated on progress by the FOI lead. The applicant will also be informed that they reserve the right to make an application to the other authority themselves, as described in 6.4.

Before transferring a request for information to another authority, the FOI lead will consider:

- Whether a transfer is appropriate; and if so
- Whether the applicant is likely to have any grounds to object to the transfer;

The FOI lead will only transfer a request to another authority with the applicant's consent. If the applicant refuses to give consent, the FOI lead will suggest that he or she makes a new request to the other authority.

Where a request or part of a request is transferred from one public authority to another, the receiving authority must comply with its obligations under Part I of the Act in the same way as it would for a request that is received direct from an applicant. The time for complying with such a request will be measured from the day that the receiving authority receives the request.

All transfers of requests should take place as soon as is practicable and the applicant should be informed as soon as possible once this has been done. The target time for such transfers by the PCT to another public authority will be twenty working days.

Where the FOI lead is unable either to advise the applicant which public authority holds, or may hold, the requested information or to facilitate the transfer of the request to another authority, they should consider what advice, if any, they can provide to the applicant to enable him or her to pursue his or her request. This may include referral to not-for-profit sector information and advice providers, such as the Citizens Advice Bureau, or to the Information Commissioner.

A record will be kept of all activity associated with the transfer of requests for information to other public authorities.

7 CONSULTATION WITH THIRD PARTIES

7.1 Where a request affects legal rights of a third party

In some cases, the disclosure of information pursuant to a request may affect the legal rights of a third party. This may arise where information is subject to the common law duty of confidence or where it constitutes "personal data" within the meaning of the Data Protection Act 1998 ("the DPA"). Unless an exemption provided for in the Act applies in relation to any particular information, the PCT is obliged to disclose that information in response to a request.

In some cases disclosure of information cannot be made without the consent of a third party. For example, where information has been obtained from a third party and, in the circumstances, the disclosure of the information without their consent would constitute an actionable breach of confidence such that the exemption at section 41 of the Act would apply. In such cases, the FOI lead will consult the third party with a view to seeking their consent to the disclosure, unless such a consultation is not practicable, for example because the third party cannot be located or because the costs of consulting them would be disproportionate.

Where information constitutes "personal data" within the meaning of the DPA, the FOI lead will have regard to section 40 of the Act that makes detailed provision for cases in which a request relates to such information and the interplay between the Act and the DPA in such cases.

A record will be kept of all contacts with third parties in regard to consultations and decision-making on the disclosure of information that may affect their legal rights.

7.2 Consultation in non-legal circumstances

Where the interests of the third party that may be affected by a disclosure do not give rise to legal rights, consultation may still be appropriate. The FOI lead will lead any consultation where:

- The views of the third party may assist the authority to determine whether an exemption under the Act applies to the information requested; or
- The views of the third party may assist the authority to determine where the public interest lies under section 2 of the Act.

The FOI lead may consider that consultation is not appropriate where the cost of consulting with third parties would be disproportionate. In such cases, they will consider what the most reasonable course of action is to take in light of the requirements of the Act and the individual circumstances of the request.

Consultation will be unnecessary where:

- The PCT does not intend to disclose the information relying on some other legitimate ground under the terms of the Act;

- The views of the third party can have no effect on the decision of the PCT, for example, where there is other legislation preventing or requiring the disclosure of this information;
- No exemption applies and so under the Act's provisions, the information must be provided.

A record will be kept of all contacts with third parties in regard to consultations and decision-making on the disclosure of information.

7.3 Consultation with a number of third parties

Where the interests of a number of third parties may be affected by a disclosure and those parties have a representative organisation which can express views on behalf of those parties, the FOI lead will, if they consider consultation appropriate, consider that it would be sufficient to consult that representative organisation.

If there is no representative organisation, the FOI lead may consider that it would be sufficient to consult a representative sample of the third parties in question.

A record will be kept of all contacts with representative organisations or representative samples of third parties in regard to consultations and decision-making on the disclosure of information.

7.4 Where there is no response or a refusal to consent by the third party

The fact that a third party has not responded to consultation does not relieve the PCT of its duty to disclose information under the Act, or its duty to reply within the time specified in the Act.

In all cases, it is for the PCT, through the FOI lead not the third party (or representative of the third party), to determine whether or not information should be disclosed under the Act. A refusal to consent to disclosure by a third party does not, in itself, mean information should be withheld.

A record will be kept of all response to consultations and the decision-making processes that arise from them.

8 CHARGES AND FEES

8.1 Publication Scheme Charges

The PCT will charge only for hard copies or copying onto media (e.g. CD ROM). Most information will be available for free; although some information may incur a charge. The charges will vary according to how information is made available.

Information that is available from the PCT's website will be free of charge, although any charges for Internet Service Provider and personal printing costs would have to be met by the individual. For those without Internet access, a single printout of the information as on the website will be available by post or personal application to the FOI lead.

Requests for multiple printouts or for archived copies of documents that are no longer accessible or available on the web may attract a charge for the retrieval, photocopy, postage and so on. In such circumstances, the FOI lead will inform the applicant in writing of the cost and the charges that will have to be paid in advance. A record must be taken of the charge levied, the date the notification was received by the applicant and the date the applicant pays the charge.

The PCT will not provide printouts of other organisation's websites.

Leaflets and brochures produced by the PCT will be provided free of charge.

Any "glossy" or other bound paper documents, or in some cases a CD ROM, video or other mediums, will be subject to a charge as determined by the costs of production to the PCT. A price will be given on application to the applicant.

Any information that can be transmitted by e-mail will be provided free of charge, unless otherwise stated.

The charges will be reviewed regularly by the FOI lead.

8.2 Fees under general right of access

The Trust will levy a fee in accordance with Fees Regulations made under the Act in respect of requests made under the general right of access.

The Fees Regulations do not apply:

- To material made available under a publication scheme under section 19 (covered in 8.1 above);
- To information which is reasonably accessible to the applicant by other means within the meaning of the exemption provided for at section 21; or
- Where provision is made by or under any enactment as to the fee that may be charged by the public authority for disclosure of the information as provided in sections 9(5) and 13(3) of the Act".

The PCT will ensure that any charges made in cases falling outside those covered by the Fees Regulations are in accordance with any relevant legislation and are within the terms of any relevant guidance which has been issued or approved by HM Treasury and which is applicable to the PCT.

The PCT will keep a record of the date upon which the applicant is given the notice.

The FOI lead will keep a record of the date of despatch to the applicant of Fees Notices, as well as a record of the payment of such fees.

8.3 Fees, Charges and Timescales

If a Fees Notice has been issued to an applicant, or they have been informed of a charge for information listed in the Publication Scheme, the 'clock stops' in regard to compliance with the twenty working day timescale.

Once an applicant has paid their fees or charges, the 'clock' re-starts again from the point within the twenty working days that it 'stopped'. The applicant will then be provided with the information they requested.

Applicants will have three months beginning on the day on which they were given the fees notice/notified of the charge to pay the fee/charge.

9 COMPLAINTS AND FEEDBACK

Comments and feedback about the discharge of the duties of the PCT, in regard to the FOI Act, are to be forwarded to the FOI lead.

All complaints concerning FOI requests, verbal or written (including those transmitted by electronic means), must be referred immediately to the PCT Complaints and Litigation Manager.

The PCT will attempt to resolve all complaints concerning FOI requests locally but will inform all complainants of the PCT's complaints procedure.

All complainants will be informed of their right to complain directly to the Information Commissioner and will be given the Information Commissioner's contact details. Complainants who remain dissatisfied with the PCT at the end of the Local Resolution Stage will be advised to take their complaint to the Information Commissioner.

10 ACCESSING AND MAINTAINING THE PUBLICATION SCHEME

The FOI lead, with the assistance of the PCT's Communications Team and other relevant staff, will update the Publication Scheme on a quarterly basis.

The FOI lead will review the Publication Scheme in terms of content annually.

The Information Commissioner will review the model Publication Scheme that the PCT has chosen to adopt in terms of the classes of information utilised and structure in 2007.

The Publication Scheme will be featured prominently on the PCT's website. The PCT's Web Manager will assist the FOI lead in achieving this.

Hard copies of the Publication Scheme will be made available.

The FOI lead will also arrange for an electronic, read only copy of the Publication Scheme to be forwarded to anyone who requests a copy of the Scheme and has access to e-mail.

11 TRAINING AND AWARENESS RAISING

Training on the implications of the Freedom of Information Act 2000, the Trust's Freedom of Information Act 2000 Policy and this Procedure will be provided.

Information on the Act will also be provided to PCT staff on induction to the organisation. The PCT's Policy on the Act will be cascaded through the organisation's policy distribution system.

12 LEGAL ADVICE

The FOI lead will be the conduit through which legal advice on FOI is sought and given.

A record will be kept of any advice sought from and given by the Trust's solicitors concerning FOI matters.

13 REVIEW

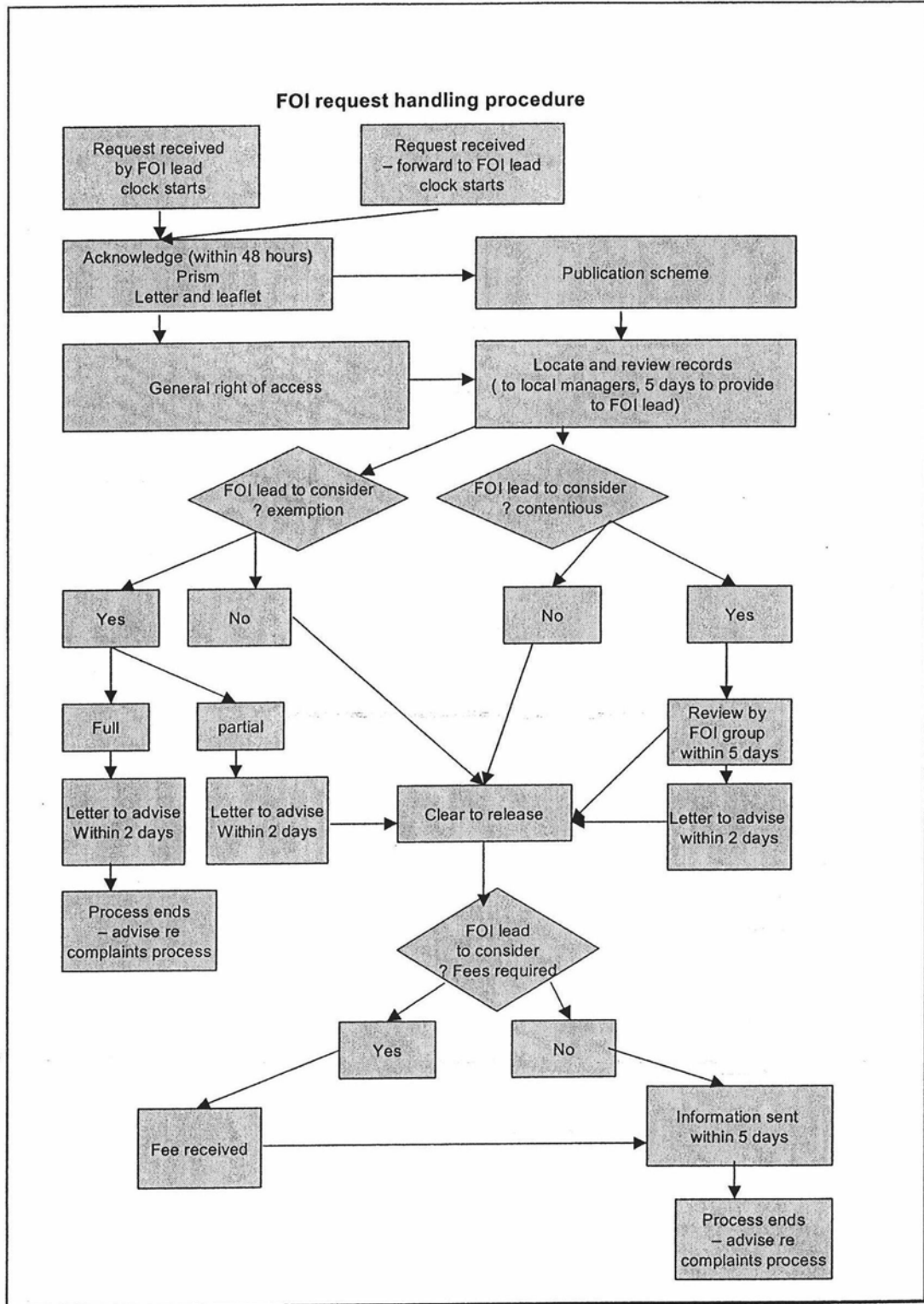
This document will be reviewed annually.

The next review is due on 1 November 2005

14 REFERENCES

Freedom of Information Act 2000

Lord Chancellor's Code of Practice on the Discharge of Public Authorities' Functions under Part I of the Freedom of Information Act 2000, issued under Section 45 of the Act.



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POLICY No: OPR/F4

Attachment 2 SUMMARY OF KEY ACTIONS AND TIMESCALES

Stage	Key Action	Timescale	Who?	Other Actions
Initial Application	Details of enquiry to FOI lead (Matthew Thomas) by fax or e-mail. Original documentation also sent to FOI lead.	1 working day.	Recipient of request.	Recipient informs applicant that request will be processed in 20 working days.
Processing Request				
On Receipt	Acknowledge receipt of request to applicant.	2 working days.		The FOI lead <ul style="list-style-type: none"> Keeps applicant informed of progress. Provides advice and assistance if required.
Accessing information	Identification of person(s) holding relevant information.	2 working days.		<ul style="list-style-type: none"> Decides if a fee/charge is applicable.
	Locate and provide relevant information to FOI lead <i>Note: Timescale suspended if insufficient information provided by applicant to identify and locate information requested.</i>	5 working days.	Staff	<ul style="list-style-type: none"> Decides if request can be met within applicable limits set in Fees Regulations. Decides if information is exempt.



POLICY No: OPR/F4

Stage	Key Action	Timescale	Who?	Other Actions
	<p>Additional time granted if:</p> <ul style="list-style-type: none"> • Contentious request is taken to the FOI Forum. • Information requested is difficult to retrieve. 	5 working days.		<ul style="list-style-type: none"> • Decides if request is repeated or vexatious.
	<p>Information reviewed in respect of fees/charges and exemptions.</p> <p><i>If a fee or charge is applicable to the information requested a Fees Notice/notification of a charge will be issued. The twenty working day timescale is suspended until the fee/charge is paid.</i></p>	2 working days.		<p>FOI lead provides advice and assistance in the event of applicant being unable/unwilling to pay fee/charge.</p> <p>If an exemption is applicable the FOI lead will issue a notice informing the applicant of this.</p> <p>If a request is refused for any other reason, the FOI lead will notify the applicant of this.</p>
Providing Information	Information provided to applicant.	3 working days.		The FOI lead will consider the preferences of the applicant in regard to the format in which they wish to receive the information they have requested.

Attachment 3 RECORD KEEPING TO MONITOR FOI COMPLIANCE

The PCT will record the following information

Initial Application/Upon Receipt of a Request

When received by ...

Request Identifier – FOI/<year>/<ascending number>.

- Initial date received by the PCT.
- Name and contact details of initial recipient of request.
- Date received by FOI lead.
- Name of applicant and contact details.
- Access route – Publication Scheme or general right of access.
- Summary of information requested.
- Letter/e-mail acknowledging receipt of request to applicant.

Accessing Information

Internal Contacts

- Name and contact details of person(s) holding information.
- Date information requested from person(s) holding information.
- Extensions granted due to difficulties in locating or retrieving information.

Contacts with applicant

- Information given on progress of request to applicant.
- Advice and assistance given by FOI lead to applicant.
- Date of issue, receipt and payment by applicant of Fees Notices/notification of charges.
- Decision making processes leading to application of exemptions or the refusal of requests.
- Exemption notices and notifications of a refusal of a request issued to applicants.

Contacts with other individuals/organisations

- Activity associated with transfers of requests to other public authorities.
- Activity associated with consultation and decision making with third parties on the disclosure of information.

Providing the Information

- Date upon which the information was provided to the applicant.
- Form in which the information was requested.
- Format in which the information was provided.
- Any reasons for a difference between the format in which the information was provided and the form in which it was requested.

Complaints

The PCT already maintains a record of the complaints that it receives and investigates. The same system will be used for FOI, with a record of referrals to the Information Commissioner also being kept.

Legal Advice

A record will be kept of any legal advice sought and received by the PCT.

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Attachment 4 Standard letters for response to applicants**Guidance note**

All standard letters should include a named contact within the PCT for applicants to respond to.

All acknowledgements should include

- leaflet about requests for information
- Application reference no
- Date
- Signed
- Footer detailing details of the Information Commissioner's www.

Letters refusing a request should include reference to the Complaints process.

Letters enclosing a fees notice should include details of the fee notice reference in addition to the application reference.

Letters with enclosed papers (or whichever format) should include reference to Complaints Process.

Ref:acknowledge letter : to be sent within 2 working days

Date

Address

Dear

Request for information under the Freedom of Information Act 2000

Thank you for your *letter/email/other format** requesting information on

insert quote from request for detail

I have enclosed a leaflet to guide you on how your application will be processed.

If the request is unclear – paragraph here to request further detail/clarification.

Either:

Your request is for information that is contained within the Publication Scheme which can be found on www.easthampshirepct.nhs.uk

Or

Your request is for information that is not provided under the Publication Scheme and is currently being assessed. I shall write to you again within #.days when I have further details.

In the meantime, if you have any further queries, please contact

Yours sincerely

FOI Administrator

* Where an applicant has requested support to construct a “written request”, the detail should be returned to them to confirm and sign

East Hampshire **NHS**

Primary Care Trust

POLICY No: OPR/F4

Ref: letter to disclose under publication scheme – where a hard copy has been requested (paper, disc)

Date

Address

Dear

Further to my letter of ##, I have now obtained the information you have requested from the Publication Scheme.

The cost to provide this is £.

Cheques should be made payable to:

On receipt of payment the paper(s) will be sent to you.

If the request has been for documents on CD-ROM this should be reflected in the letter and in the costs.

Yours sincerely

FOI Administrator

Ref for further information: can be via email, telephone or letter

Dear

Further to my letter of ##, I have now had an opportunity to review your request

Insert their exact quote

Unfortunately, I have been unable to process your request as:

Options:

- The description you have given does not match with anything that we hold.
- The cost to provide you with all the information under this heading would exceed the Fees regulations of a maximum charge of You have two options – to refine your request or to opt to pay the full charge. *A telephone opportunity to refine the request should be given.*
- The information you have requested is exempt under the Act because...
An unambiguous reason should be given with due reference to the duty to confirm/deny and the exemptions in the Act.

Yours sincerely

FOI Administrator

East Hampshire 

Primary Care Trust

POLICY No: OPR/F4

Ref: Letter re other authority held information

Dear

Further to my letter of ##, I have now had an opportunity to review your request

Insert exact quote

The information you have requested is not held by the PCT.

I have investigated with *partner organisation* and have forwarded your request to them to process. *Where it is considered that the applicant will not agree to this return the request and advise the details of the contact point at other organisation.*

The information you have requested is held in part by the PCT. A fees notice is attached for the element that is held by us. I have investigated with *partner organisation* and have forwarded your request to them to process for the part of the request for information that we do not hold. *Where it is considered that the applicant will not agree to this return the request and advise the details of the contact point at other organisation.*

Yours sincerely

FOI Administrator

Enc fees notice where appropriate

*Ref: letter to disclose under general right of access– where a hard copy has been requested
(paper, disc)*

Date

Address

Dear

Further to my letter of ##, I have now obtained the information you have requested under the Freedom of Information Act. The cost to provide this is £## and a Fees notice is enclosed.

Cheques should be made payable to:

On receipt of payment the paper(s) will be sent to you.

If the request has been for documents on CD-ROM this should be reflected in the letter.

Yours sincerely

FOI Administrator

Enc : fees notice

East Hampshire 

Primary Care Trust

POLICY No: OPR/F4

Ref: letter no payment received

Dear

Re : Your request under the Freedom of Information Act

I wrote to you on ## enclosing a Fees notice for payment for information requested by you on ##

I have not yet received your payment and am unable to process your application until I have. I shall keep your file open until *3 months since date of issue of fees notice*, at which time if payment is not received I shall consider that you no longer wish to pursue your application.

If you have difficulties with payment of this Fee please contact me so that we may discuss this further.

Yours sincerely

FOI Administrator

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The Information Commissioner's website is:
<http://www.informationcommissioner.gov.uk/>